

REMARKS

Claims 1-33 are pending in this application. Claims 1, 13, 15, 19, 24, and 26 are in independent form. Claims 1-25 are noted as being rejected on the Office Action Summary. However, claim 25 is not rejected anywhere in the body of the rejection, claims 23-24 have not been rejected over art, and it appears that claims 26-33 were not even acted upon by the Examiner. Telephone calls were made to Examiner Handy on March 7, 2007 and on March 9, 2007 to inquire as to the status of these claims; however, a response from the Examiner was not received.

Claims 1-24 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Further, claims 1-8, 10-17, and 19-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Konrad (5,871,700). Moreover, claims 1-22 are rejected under 35 U.S.C. § 102(e) as being anticipated by Iskra (6,651,835) and Iskra (6,749,078). Each of these rejections is respectfully traversed.

The present claimed invention is directed to a plurality of container assemblies, i.e., at least two container assemblies, wherein each container assembly has substantially identical external dimensions, however the internal volumes of the container assemblies differ from one another. The container assemblies are configured in accordance with the required volume of material to be collected or maintained in the respective container assemblies and to enable uniform head spaces despite the different volumes of materials in the respective container assemblies.

Indefiniteness Rejections:

With respect to the rejections under 35 U.S.C. § 112, the Examiner contends that the claims fail to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner states that claims 1, 15, and 19 recite “a plurality of container assemblies”. The Examiner then states that “it appears that Applicant has disclosed a device that is a single container assembly comprised of first and second containers, not a plurality of container assemblies as recited in the claims”. The Examiner further notes that

“the only recitation of a plurality of containers in the Specification appears in paragraph 0012, which refers to a plurality of nested containers that comprise the assembly”.

Contrary to the Examiner’s assertion, the present claims are directed to a plurality of container assemblies, and such an invention is fully disclosed and supported in the application. The specification includes many references to the “plurality” of container assemblies as recited in the claims. For example, the Examiner’s attention is directed to paragraph [0011] which states:

The invention also is directed to a system of containers. All of the containers in the system have uniform outside shapes and dimensions. However, the wall thicknesses of the containers vary among groups of containers within the system. As a result, the volume of fluid that can be collected by the containers in the system varies among at least certain of the containers. The volume is inversely related to the thickness of the walls of the containers. All of the containers within the system, however, provide a substantially uniform head space.

The Examiner’s attention is also directed to the Abstract which recites essentially the same information as in the above-referenced paragraph [0011] of the specification. Other references for different internal volumes based on differing internal diameters, uniform outer diameters, and uniform head spaces within sets of containers can be found throughout the specification at paragraphs [0025]; [0029]; [0030]; [0031], [0032]; [0033]; and [0034]. Figures 5, 7, and 8 show containers having uniform outer dimensions wherein the wall thicknesses of the containers are varied to produce different volumes for the containers. Figures 9 and 10 show containers having uniform outer dimensions wherein the inner portions of the containers have a different height.

The Examiner further cites references to Kedar et al. and Boulton et al. as examples of devices having a plurality of container assemblies. Kedar et al. is directed to a plate comprising a plurality of wells. Boulton et al. is directed to a multi-well microplate. Neither of these references have any pertinence to the present invention, which is directed to a plurality of container assemblies wherein each distinct container assembly has substantially identical

external dimensions with one another, however the internal volumes of the distinct container assemblies differ from one another.

With respect to the rejection of claim 3, the Examiner contends that the claim language referring to the inner containers is unclear. Applicants respectfully disagree. Claim 3, as well as claim 1, clearly recite “a plurality of container assemblies”. Claim 1 further states that the plurality of container assemblies comprise at least *a first container assembly and a second container assembly* and that each of the container assemblies *in the plurality of container assemblies* has an outer container and an inner container. Claim 3 refers to the inner container of the *first container assembly* and the inner container of the *second container assembly*. Claim 1 clearly provides basis for the first container assembly and the second container assembly. Claim 1 also provides basis for the first and second container assemblies recited in claims 5 and 7.

With respect to claims 8, 14, and 19, basis is clearly provided for first and second closures, since the specification discloses at least two separate container assemblies in claim 1, as noted above.

With respect to claim 17, this claim depends from claims 15 and 16. Claim 15 recites at least one first container and at least one second container. Accordingly, at least two separate containers are being claimed. Claim 16 recites that *each* container is formed from a first plastic material adjacent an outer surface and a second plastic material (inner surface). Accordingly, each container of the “group” of containers has an outer layer formed from plastic. Claim 17 recites that the first plastic material for *each* container is of the same thickness, i.e., the outer plastic layer of each container in the “group” is of the same thickness.

With respect to claim 24, the Examiner states that the specification does not set forth any steps. It is Applicants’ position that the “providing” steps, recited in claim 24, are clear to one having ordinary skill in the art. If the Examiner maintains this “rejection”, the Applicants would be willing to amend the specification to include a “word for word” recitation of this claim into the specification. Since claim 24 is part of the original disclosure, this amendment of the specification would not constitute new matter.

Rejections Based on Konrad:

The Examiner contends that Konrad anticipates the claims based on the alleged teachings of a cylindrical container having an inner container surrounded by an outer housing having substantially the same dimensions. Konrad, however, fails to teach or suggest a plurality of containers having identical outer dimensions, let alone each of the containers, within a plurality of containers having a different internal dimension. Instead Konrad merely teaches a tube in a tube to form a container with no teachings as to providing a plurality of containers with different internal volumes.

For the reasons set forth above, it is respectfully requested that the rejection of claims 1-8, 10-17 and 19-22 under 35 U.S.C. 102(b) be withdrawn as Konrad fails to teach each and every feature of the present claims.

Rejections Based on Iskra:

The present invention is a CIP application based on the Iskra patents. The Examiner relies on the Iskra patents as teaching a single container having inner and outer nested members. The teachings in the Iskra patents for which the Examiner relies upon are fully supported in the present application. Moreover, neither of the Iskra patents teaches the particular claimed features of the present application of a plurality of containers having identical outer dimensions wherein each of the containers, within the plurality of containers, has a different internal volume.

For the reasons set forth above, it is respectfully requested that the rejection of claims 1-22 under 35 U.S.C. § 102(e) be withdrawn as neither of the Iskra references can be considered "art" against the present invention in the manner applied by the Examiner, and neither reference teaches each and every feature of the claims.

Based on the foregoing remarks, reconsideration of the rejection and allowance of claims 1-33 is requested.

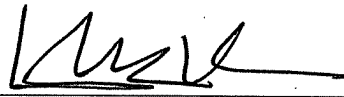
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Should the Examiner have any questions or wish to discuss this matter in further detail, the Examiner is invited to contact Applicants' undersigned attorney by telephone at 412-471-8815.

Respectfully submitted,

THE WEBB LAW FIRM

By



Kirk M. Miles
Registration No. 37,891
Attorney for Applicants Under Rule 1.34
700 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
Telephone: 412-471-8815
Facsimile: 412-471-4094
E-mail: webblaw@webblaw.com